

EXHIBIT 4 –  
Declaration of  
Southern Desert  
Correctional Center  
Associate Warden,  
James Scally

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MARCELL WILLIAMS,  
  
Plaintiff,

vs.

WARDEN OF SOUTHERN DESERT  
CORRECTIONAL CENTER, et al.,  
  
Defendants.

CASE NO. 2:20-cv-00639-RFB-BNW

**DECLARATION OF SOUTHERN  
DESERT CORRECTIONAL CENTER  
ASSOCIATE WARDEN, JAMES  
SCALLY**

I, James Scally, hereby declare based on personal knowledge and/or information and belief, that the following assertions are true.

1. I am currently employed with the Nevada Department of Corrections (NDOC), where I am assigned as an Associate Warden of Southern Desert Correctional Center (SDCC). As Associate Warden, I am responsible for assisting the Warden in overseeing all aspects of SDCC. This includes ensuring that all NDOC policies, practices and procedures are implemented and followed by all persons incarcerated with the NDOC and housed at SDCC, SDCC staff, and to the extent applicable, outside vendors, volunteers and visitors to the facility.

2. Due to me being an Associate Warden at SDCC, Chief Deputy Attorney General D. Randall Gilmer reached out to me regarding the above referenced lawsuit. I was contacted due to the fact that Warden Jerry Howell is no longer assigned as the Warden at SDCC, and while we have a new Warden who is intimately involved in all aspects of the administration of SDCC, I have personal knowledge of the COVID-19

1 protocols implemented by the NDOC and initially put in place at SDCC by Warden Howell  
2 and can attest to the fact that those policies and procedures remain in effect at this time.

3 3. Specifically, I have familiarized myself with the declarations that Warden  
4 Howell has previously provided to this Court in both this case as well as the case styled  
5 *Kerkorian v. State of Nevada Department of Corrections*, Case No. 2:20-cv-00050-RFB-  
6 BNW. These documents reviewed by me indicate that they were filed with this Court in  
7 either this case or the *Kerkorian* case, as they have affixed at the top margin an electronic  
8 stamp that my counsel has informed me is placed on a document when it is filed with the  
9 Court. In this regard, I reviewed documents filed in this case with that bear the following  
10 the following document number, which my counsel has informed me is generally referred  
11 to as an “ECF No.” Those numbers are ECF Nos. 6–7, 9, 9–5, and 12–1, and a document  
12 that was filed under seal that my counsel informed me was filed at ECF No. 10 and entitled  
13 on the first page *Supplemental Report of Warden Howell and the Nevada Department of*  
14 *Corrections, Specially Appearing in Response to the Court’s April 10, 2020 Minute Order*  
15 *(ECF No. 7)* and that also bears “EXHIBIT A (Under Seal)” in bold letters, and consist of a  
16 total of fourteen (14) pages.

17 4. In addition to these documents which I understand were filed in this matter,  
18 I have also had the opportunity to review the declaration filed by Warden Howell in the  
19 *Kerkorian* matter, which consists of fifty–six (56) pages and can be identified on the Court  
20 docket for the *Kerkorian* matter as ECF No. 18–6.

21 5. My review of the documents further identified in ¶¶ 3–4 did not only consist  
22 of the declaration of Warden Howell, but also the underlying documents attached to those  
23 declarations or if not attached, referenced in those documents. This includes a review of  
24 SDCC Operational Procedure (OP) 490 and OP 211B, both of which detail cleaning and  
25 sanitization procedures at SDCC. I was familiar with both of these documents prior to my  
26 review for purposes of this Declaration as my duties including ensuring compliance with  
27 all OPs as well as Administrative Regulations (ARs).

1           6.     After my review of Warden Howell's declarations filed in this case I can attest  
2 that his description regarding OP 490 and OP 211B, and how those procedures are  
3 implemented at SDCC were true and accurate, and that those procedures remain in place  
4 at SDCC despite Warden Howell's reassignment.

5           7.     To clarify further, OP 211B provides the amount, type and frequency of  
6 cleaning supplies made available to the inmates and/or staff within housing units. These  
7 products are crucial to ensure a healthy and hygienic work and living space. The  
8 information contained in OP211B is a true and accurate representation of the types of  
9 supplies provided as well as the quantity available for the inmates.

10          8.     It is important to note that these requirements are over and beyond the  
11 additional cleaning and hygiene steps Warden Howell put in place at SDCC for all staff to  
12 implement during the current COVID-19 pandemic. Those steps included Warden Howell's  
13 mandate that all housing units and entry doors to be cleaned at a minimum once every two  
14 hours, that the dining rooms and gym be cleaned after every use, and that maintenance  
15 areas are mandated to be cleaned at least once every hour. These cleaning time  
16 requirements are merely minimums which are often exceeded.

17          9.     I attest that each of the requirements implemented by Warden Howell  
18 described in ¶ 9 remain in full force and effect at SDCC.

19          10.    I also reiterate that the procedures set forth in ¶¶ 7-9 are in addition to the  
20 general requirements of Operational Procedure 490 (OP 490), effective July 3, 2015. As  
21 Warden Howell previously informed this Court, OP 490 makes clear that "[i]t is the  
22 responsibility of all staff directly involved in supervising a shop, housing unit or any other  
23 area . . . to maintain constant surveillance of that area to ensure acceptable sanitization  
24 practices are followed on a daily basis." OP 490.02(1). Staff are also empowered to provide  
25 "appropriate protective clothing . . . should reasonable precautions dictate the use of such  
26 clothing." OP 490.02(2). And finally, inmates are expected and required to assist in these  
27 cleaning efforts by "maintain[ing] sanitary conditions, personal hygiene, and cleanliness,"  
28 which includes using the "cleaning equipment or material issued to them." OP 490.03(1).

1 Inmates are also reminded of the requirement to “[r]eport all illness or disease” that may  
2 “require treatment.” *Id.*

3 11. Just as Warden Howell noted, the time frames and supplies referenced in OP  
4 211B and OP 490 as implemented by Warden Howell, are minimum requirements, that are  
5 often exceeded to ensure a sanitized and safe environment is maintained throughout  
6 SDCC.

7 12. I further attest that SDCC continues to abide by all medical protocols put in  
8 place by Dr. Minev. These protocols include the use of masks by all staff members, including  
9 the use of N95 masks in certain circumstances. In addition to staff members being required  
10 to wear masks, all inmates have been provided with two masks to be used by them, and  
11 the use of the masks by inmates is highly encouraged.

12 13. Based on the allegations Mr. Williams has made in his latest filings with this  
13 Court, I spoke with members of the medical staff as well as the correctional staff in order  
14 to determine whether SDCC was properly ensuring that COVID-19 protocols were being  
15 followed. In particular, I wanted to investigate Mr. Williams assertions that the phone was  
16 not being disinfected between uses, as well as other items and areas complained of by he  
17 or his witnesses. Based on that investigation, I affirm that the phone and other  
18 miscellaneous items (such as handcuffs and trays) are being cleaned and sanitized between  
19 use by any inmate. As the phone is a portable phone that is provided to inmates to use in  
20 their cell, it is not surprising that Mr. Williams and the other inmates may not see these  
21 sanitization procedures, as the cleaning supplies for the phone (and handcuffs) are kept in  
22 “the bubble” or other administrative areas of the housing unit outside the view of the  
23 inmates.

24 14. I also investigated claims that man-down calls and other complaints of illness  
25 were being ignored. Based on that investigation, I have no reason to believe that this is  
26 true. All staff members are fully aware of the importance of ensuring proper medical  
27 attention upon being notified of a request by an inmate. In this regard, a review of the  
28 Nevada Offender Tracking Information System (NOTIS), a system I am familiar with and

1 use on a daily basis to perform my job duties, fails to indicate any grievances from any  
2 inmate in Unit 8 regarding allegations that requests for medical attention are being denied  
3 or ignored by SDCC staff. NOTIS is the database where such grievances would be tracked  
4 and stored.

5 15. I also confirm that SDCC continues to have Town Hall Meetings for all  
6 inmates two days per week. During these meetings, inmates are provided updates  
7 regarding COVID-19 in order to continue to educate them as to how best to protect  
8 themselves from infection as well as to ensure that the inmates are aware of the safety and  
9 security measures NDOC and SDCC have implemented in this fight against COVID-19.

10 16. I also attest that I have never informed any staff member or inmate to not  
11 reveal their COVID-19 status. Of course, as a medical condition, staff and inmates have a  
12 right to keep this information as confidential as possible, but neither I nor anyone working  
13 for NDOC has ever informed people to try to hide their diagnosis. In fact, as every staff  
14 member who tests positive for COVID-19 is immediately placed on administrative leave  
15 and not permitted to return to work until they have been cleared by Dr Minev or his  
16 designee, the allegation is nonsensical as any positive staff member would not be working  
17 and therefore would not have the ability to share their positive status with any inmate.

18 17. I also can confirm that Unit 8 was placed on quarantine status following the  
19 inmate housed in that unit testing positive on July 11, 2020. The inmate was immediately  
20 removed from Unit 8 and transferred to medical, where I understand he was placed in a  
21 negative airflow cell. No inmate within Unit 8 was transferred out of that unit for a  
22 minimum of 14 days (this is not to say that anyone has been transferred out as of now, as  
23 I only confirmed for the 14 day time frame required).

24 18. The fact that the inmates in Unit 8 were quarantined and not transferred out  
25 of the unit, is different than inmates being transferred into Unit 8. Any transfer into Unit  
26 8 occurred only after the positive inmate had been removed. Further, the unit is a  
27 segregated unit and therefore there is little to no social interaction between the inmates  
28 outside of their cell. All inmates in Unit 8 eat inside their cell, where they are housed by

1 themselves. In addition, inmates in Unit 8 are only provided individual outdoor recreation.  
2 This recreation takes place in a fenced in area limited to one inmate at a time. These areas  
3 are cleaned and sanitized before any other inmate is placed in the area.

4 19. I declare under penalty of perjury pursuant to 28 U.S.C. section 1746 that the  
5 foregoing is true and correct.

6 EXECUTED this 29<sup>th</sup> day of July, 2020.

7  
8 /s/ James Scally\*  
9 James Scally  
SDCC Associate Warden,  
Nevada Department of Corrections

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11  
12 \* Pursuant to Temporary General Order 2020-05, entered by Chief Judge Du on March 30,  
13 2020, [https://www.nvd.uscourts.gov/wp-content/uploads/2020/03/GO-2020-05-re-COVID-](https://www.nvd.uscourts.gov/wp-content/uploads/2020/03/GO-2020-05-re-COVID-19-Remote-Hearings.pdf)  
14 [19-Remote-Hearings.pdf](https://www.nvd.uscourts.gov/wp-content/uploads/2020/03/GO-2020-05-re-COVID-19-Remote-Hearings.pdf), Associate Warden Scally has authorized counsel to affix his  
electronic signature to this Declaration. If counsel has misconstrued this Temporary Order,  
of if this Court would prefer a hand signature, one will be provided upon request.